



Fast Track Proposed Regulation Agency Background Document

Agency name	Board of Counseling, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC115-20-10 et seq. 18VAC115-50-10 et seq.
Regulation title	Regulations Governing the Practice of Professional Counseling Regulations Governing the Practice of Marriage and Family Therapy
Action title	Addition of a professional organization as an approved provider of CE
Date this document prepared	6/5/09

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The proposed amendments are in response to a petitioner's request to add the American Association of Pastoral Counselors (AAPC) to the list of organizations approved to provide continuing education for professional counselors and marriage and family therapists and to offer training for persons who want to qualify to supervise a residency.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On June 5, 2009, the Board of Counseling amended 18VAC115-20-10 et seq., Regulations Governing the Practice of Professional Counseling and 18VAC115-50-10 et seq., Regulations Governing the Practice of Marriage and Family Therapists.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board of Counseling the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

- ...
6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the amendments is to recognize an additional professional body as approved to offer continuing education and supervisor training. The AAPC has an established history of professionalism and high standards for training of supervisors, so its recognition and acceptance as an organization that can provide education and training courses is consistent with the Board’s responsibility to protect the health, safety and welfare of the public. The supervisory requirements for Pastoral Counselors certified by AAPC are rigorous and lengthy and exceed the standards set by the Board, so the public is well-protected by having a residency supervised by a licensee who has obtained supervision training from AAPC.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

A fast-track process is being used to promulgate this regulation because the addition of another approved provider of continuing education and supervisor training offers increased opportunities for licensees to meet the Board's current requirements. Since the regulation is more inclusive, and the AAPC is an established body recognized for its professionalism, there should be no controversy.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

The action would amend Section 106 of Chapter 20 (Licensed Professional Counseling) and Section 96 of Chapter 50 (Marriage and Family Therapy) to add the American Association of Pastoral Counselors to the list of approved providers of continuing education. The organizations in the list are referenced in Section 52 of Chapter 20 and Section 60 of Chapter 50 as recognized as also approved to provide the training required to become a supervisor of a residency.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

- 1) The advantage to the public may be the additional availability of continuing education courses and training courses for counselors and marriage and family therapists, which may make them safer to practice. There are no disadvantages.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There are no other pertinent matters of interest.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Since the regulation is more permissive and inclusive, there are no alternative regulatory methods to accomplish the objectives.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation; b) The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Since most mailings to the PPG list are handled electronically, there is very little cost involved. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. There are no on-going costs to the agency.</p>
<p>Projected cost of the regulation on localities</p>	<p>None</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>The individuals likely to be affected would be licensed professional counselors and marriage and family therapists.</p>
<p>Agency’s best estimate of the number of such</p>	<p>There are currently 3220 licensed professional</p>

<p>entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>counselors and 849 licensed marriage and family therapists. Some individuals hold both licenses. The board has no information on how many licensees would constitute a small business.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>There would be no additional costs for the amended regulation, which offers additional opportunities to meet current requirements through an additional provider of CE and supervisor training.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no viable alternatives to the proposal, which is less burdensome and more inclusive.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The institution of the family may be strengthened by counselors who have training from the American Association of Pastoral Counselors.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

Chapter 20

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
106	n/a	Subsection B lists the organizations and entities	Adds #12 – The American Association of Pastoral Counselors

		that may certify or approve continuing education	<p><i>The AAPC is an established professional organization recognized in the field; the board is assured of the quality of its CE offerings and supervisor credential.</i></p> <p><i>The listing in subsection B of 106 is referenced in section 52 as those professional organizations that can provide training required of persons to supervise a residency.</i></p>
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Chapter 50

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
96	n/a	Subsection B lists the organizations and entities that may certify or approve continuing education	<p>Adds #12 – The American Association of Pastoral Counselors</p> <p><i>The AAPC is an established professional organization recognized in the field; the board is assured of the quality of its CE offerings and supervisor credential.</i></p> <p><i>The listing in subsection B of 96 is referenced in section 60 as those professional organizations that can provide training required of persons to supervise a residency.</i></p>